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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,802	07/28/2003	Guy Balland	Q76515	2659
23373	7590	09/20/2006	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			JEAN BART, RALPH	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/627,802	Applicant(s) BALLAND ET AL.	
	Examiner Ralph Jean-Bart	Art Unit 2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07/28/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/28/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

Drawing Objections

Figures 1,2 and 5 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims Objection

Claim 1 is objected to because of the following informalities: Page 8 line 7 introduces the word "an uniform spectrum" is grammatically incorrect and should be changed to – **a uniform spectrum**--. Appropriate correction is required.

Regarding claim 4, the phrase "in the vicinity to the non-linear threshold" is indefinite and ambiguous. In the vicinity should be changed to --**the area of the non-linear threshold**--

Regarding claim 5, the phrase "optical signals will be launched" will be interpreted to be -- **optical signals shipped**--. --. Appropriate correction is required.

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Regarding claim 6, the phrase "for coupling" will be interpreted to be – **coupled--**. In addition, the phrase "optical signals to be generated" will be interpreted to be –**optical signals generated--**. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "said optical signals will have to be coupled" renders the claim(s) indefinite and ambiguous, therefore said optical signals will have to be coupled will be interpreted to be --**said optical signals are coupled--**.

Regarding 1-5, the phrase "power reference value" is vague and indefinite. The claim language is confusing and misleading. For the purpose of applying art, the Examiner interprets the power reference value as--**any spectrum peak value--**.

Regarding claim 6, "the phrase at a same predefined power reference" is vague and indefinite. For the purpose of applying art the Examiner interprets at a same predefined power reference as --**a previous power peak value--**.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Terahara (U.S. 6,271,945).

With respect to claim 1, Terahara teaches a WDM optical communication method based on the use of a plurality of wavelength specific channels (see figure 2 channel 1 to channel m, defining a spectrum for the transmission of optical signals through an optical communication network while said optical signals are coupled at a sender side into a common optical fiber of said network (see figure 3A; optical fiber transmission line 4, transmission station 2), to be amplified by optical amplifiers along said network (see figure 1 optical amplifiers 10), the power of optical signals per channel will be tuned at said sender side to build an uniform spectrum throughout said optical communication network by keeping said power of optical signals at specific points of said optical communication network to a discrete value for the whole used spectrum (see figure 3A spectral Density for channel 1 to channel m, figure 1 specific point 4).

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With respect to claim 2, Terahara teaches said specific points of said optical communication network being chosen to be said optical amplifiers input (see figure 1 fiber transmission line 4).

With respect to claim 3, said power reference value will be predefined independently of a later state of said optical communication network (see figure 4A channel 1 to channel m; column 5 lines 38-44).

With respect to claim 4, Terahara teaches said power reference value being chosen in the area of the non-linear threshold (see figure 3B element area ASE).

With respect to claim 5, optical signals shipped at said reference power value when to be added into said common optical fiber at a node of said optical communication network possibly being at one of said specific points (see figure 1 reference point 4, figure 3A flat spectral density channel 1 to channel m).

With respect to claim 6, Terahara teaches A WDM optical communication apparatus comprising transmitters (see figure 2 LD(#1) to LD(#m) and at least a multiplexer for coupling into a common optical fiber of an optical communication network optical signals to be generated by said transmitters over a plurality of wavelength specific channels (see figure 2 Multiplexer 18), said transmitters are setup to generate said optical signals at a previous peak power over said plurality of wavelength specific channels (see figure 3A peak power channel 1 to channel m).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Jean-Bart whose telephone number is (571) 270-1017. The examiner can normally be reached on Monday to Thursday from 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Robertson, can be reached on 571-272-4186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ralph Jean-Bart

09/14/2006


DAVID ROBERTSON
SUPERVISORY PATENT EXAMINER